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Attorneys for Plaintiff  
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

GARY J. ORDOG, M.D.,

Defendant.

No. CR 2:15-00152-FMO

PLEA AGREEMENT FOR DEFENDANT  
GARY J. ORDOG, M.D.

1. This constitutes the plea agreement between defendant GARY J. ORDOG, M.D., ("defendant") and the Fraud Section of the Criminal Division of the United States Department of Justice, and United States Attorney's Office for the Central District of California (together, the "government") in the above-captioned case. This agreement is limited to the government and cannot bind any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authorities.

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a. At the earliest opportunity requested by the government and provided by the Court, appear and plead guilty to count one of the indictment in United States v. Gary J. Ordog, M.D., CR No. 2:15-00152, which charges defendant with health care fraud in violation of 18 U.S.C. § 1347.

b. Not contest facts agreed to in this agreement.

c. Abide by all agreements regarding sentencing contained in this agreement.

d. Appear for all court appearances, surrender as ordered for service of sentence, obey all conditions of any bond, and obey any other ongoing court order in this matter.

e. Not commit any crime; however, offenses that would be excluded for sentencing purposes under United States Sentencing Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not within the scope of this agreement.

f. Be truthful at all times with Pretrial Services, the United States Probation Office, and the Court.

g. Pay the applicable special assessment at or before the time of sentencing unless defendant lacks the ability to pay and prior to sentencing submits a completed financial statement on a form to be provided by the government.

h. Make restitution at or before the time of sentencing, and not seek the discharge of any restitution obligation, in whole or in part, in any present or future bankruptcy proceeding.

i. Defendant understands and acknowledges that as a result of pleading guilty pursuant to this agreement, defendant will

1 be excluded from Medicare, Medicaid, and all Federal health care  
2 programs. Defendant agrees to complete and execute all necessary  
3 documents provided by the United States Department of Health and  
4 Human Services, or any other department or agency of the federal  
5 government, to effectuate this exclusion within 60 days of receiving  
6 the documents. This exclusion will not affect defendant's right to  
7 apply for and receive benefits as a beneficiary under any Federal  
8 health care program, including Medicare and Medicaid.

9 THE GOVERNMENT'S OBLIGATIONS

10 3. The government agrees to:

11 a. Not contest facts agreed to in this agreement.

12 b. Abide by all agreements regarding sentencing contained  
13 in this agreement.

14 c. At the time of sentencing, move to dismiss the  
15 remaining counts of the indictment as against defendant. Defendant  
16 agrees, however, that at the time of sentencing the Court may  
17 consider any dismissed charges in determining the applicable  
18 Sentencing Guidelines range, the propriety and extent of any  
19 departure from that range, and the sentence to be imposed.

20 d. At the time of sentencing, provided that defendant  
21 demonstrates an acceptance of responsibility for the offense up to  
22 and including the time of sentencing, recommend a two-level reduction  
23 in the applicable Sentencing Guidelines offense level, pursuant to  
24 U.S.S.G. § 3E1.1.

25 e. Recommend that defendant be sentenced to a term of  
26 imprisonment no higher than the low end of the applicable Sentencing  
27 Guidelines range, provided that the offense level used by the Court  
28 to determine that range is 24 or higher and provided that the Court

1 does not depart downward in offense level or criminal history  
2 category. For purposes of this agreement, the low end of the  
3 Sentencing Guidelines range is that defined by the Sentencing Table  
4 in U.S.S.G. Chapter 5, Part A.

5 NATURE OF THE OFFENSE

6 4. Defendant understands that for defendant to be guilty of  
7 the crime charged in count one, that is, health care fraud, in  
8 violation of Title 18, United States Code, Section 1347, the  
9 following must be true:

10 a. Defendant knowingly and willfully participated in a  
11 scheme or plan to defraud a health care benefit program, namely  
12 Medicare, or a scheme or plan for obtaining money or property from  
13 Medicare by means of false or fraudulent pretenses, representations,  
14 or promises;

15 b. The statements made or facts omitted as part of the  
16 scheme were material; that is, they had a natural tendency to  
17 influence, or were capable of influencing, the health care benefit  
18 program to part with money or property;

19 c. Defendant acted with the intent to defraud; that is,  
20 the intent to deceive or cheat; and

21 d. The scheme involved the delivery of or payment for  
22 health care benefits, items, or services.

23 PENALTIES AND RESTITUTION

24 5. Defendant understands that the statutory maximum sentence  
25 that the Court can impose for a violation of Title 18, United States  
26 Code, Section 1347, as charged in Count One is: 10 years of  
27 imprisonment; a 3-year period of supervised release; a fine of  
28 \$250,000 or twice the gross gain or gross loss resulting from the

1 offense, whichever is greatest; and a mandatory special assessment of  
2 \$100.

3 6. Defendant understands that supervised release is a period  
4 of time following imprisonment during which defendant will be subject  
5 to various restrictions and requirements. Defendant understands that  
6 if defendant violates one or more of the conditions of any supervised  
7 release imposed, defendant may be returned to prison for all or part  
8 of the term of supervised release authorized by statute for the  
9 offense that resulted in the term of supervised release, which could  
10 result in defendant serving a total term of imprisonment greater than  
11 the statutory maximum stated above.

12 7. Defendant understands that, by pleading guilty, defendant  
13 may be giving up valuable government benefits and valuable civic  
14 rights, such as the right to vote, the right to possess a firearm,  
15 the right to hold office, and the right to serve on a jury.  
16 Defendant understands that once the court accepts defendant's guilty  
17 plea, it will be a federal felony for defendant to possess a firearm  
18 or ammunition. Defendant understands that the conviction in this  
19 case may also subject defendant to various other collateral  
20 consequences, including but not limited to revocation of probation,  
21 parole, or supervised release in another case and suspension or  
22 revocation of a professional license. Defendant understands that  
23 unanticipated collateral consequences will not serve as grounds to  
24 withdraw defendant's guilty plea.

25 8. Defendant understands that, if defendant is not a United  
26 States citizen, the felony conviction in this case may subject  
27 defendant to: removal, also known as deportation, which may, under  
28 some circumstances, be mandatory; denial of citizenship; and denial

1 of admission to the United States in the future. The court cannot,  
2 and defendant's attorney also may not be able to, advise defendant  
3 fully regarding the immigration consequences of the felony conviction  
4 in this case. Defendant understands that unexpected immigration  
5 consequences will not serve as grounds to withdraw defendant's guilty  
6 plea.

7 9. Defendant understands that defendant will be required to  
8 pay full restitution to the victim of the offense to which defendant  
9 is pleading guilty. Defendant agrees that, in return for the  
10 government's compliance with its obligations under this agreement,  
11 the Court may order restitution to persons other than the victim of  
12 the offenses to which defendant is pleading guilty and in amounts  
13 greater than those alleged in the count to which defendant is  
14 pleading guilty. In particular, defendant agrees that the Court may  
15 order restitution to any victim of any of the following for any  
16 losses suffered by that victim as a result: (a) any relevant conduct,  
17 as defined in U.S.S.G. § 1B1.3, in connection with the offense to  
18 which defendant is pleading guilty; and (b) any counts dismissed  
19 pursuant to this agreement as well as all relevant conduct, as  
20 defined in U.S.S.G. § 1B1.3, in connection with those counts. The  
21 parties currently believe that the applicable amount of restitution  
22 is approximately \$1,295,699.57, but recognize and agree that this  
23 amount could change based on facts that come to the attention of the  
24 parties prior to sentencing.

25 FACTUAL BASIS

26 10. Defendant admits that defendant is, in fact, guilty of the  
27 offense to which defendant is agreeing to plead guilty. Defendant  
28 and the government agree to the statement of facts provided below and

1 agree that this statement of facts is sufficient to support a plea of  
2 guilty to the charge described in this agreement and to establish the  
3 Sentencing Guidelines factors set forth in paragraph 12 below but is  
4 not meant to be a complete recitation of all facts relevant to the  
5 underlying criminal conduct or all facts known to either party that  
6 relate to that conduct.

7 At all times relevant to this plea agreement, the Medicare  
8 Program ("Medicare") was a federal health care benefit program, as  
9 defined by Title 18, United States Code, Section 24(b).

10 Defendant was a physician, licensed in the State of California,  
11 specializing in toxicology, and a Medicare provider with the ability  
12 to submit claims to Medicare for outpatient physician services.  
13 Defendant was responsible for all claims submitted on his behalf to  
14 Medicare. As a licensed physician and Medicare provider, defendant  
15 held a position of trust as to Medicare.

16 Beginning in or around January 2009, and continuing through in  
17 or around February 2015, in Los Angeles County, within the Central  
18 District of California, and elsewhere, defendant, together with  
19 others, knowingly, willfully, and with intent to defraud, executed,  
20 and attempted to execute, a scheme and artifice to defraud a health  
21 care benefit program, namely Medicare, as to material matters in  
22 connection with the delivery of and payment for health care benefits,  
23 items, and services.

24 Specifically, defendant submitted false and fraudulent claims to  
25 Medicare for purported office visits and other services that the  
26 defendant, in fact, never provided, including: (a) purported services  
27 for Medicare beneficiaries who were deceased well before the  
28 purported dates of services; (b) services purportedly provided to

1 beneficiaries on dates and times when the defendant was, in fact, out  
2 of the area, including on dates and times when the defendant was  
3 outside of the United States; (c) for dates and times in which the  
4 defendant claimed to have provided more than 24 hours of services for  
5 that date. Defendant, at times, fabricated patient records to  
6 support false and fraudulent claims to Medicare.

7 During the course of the scheme, from in or around January 2009,  
8 and continuing through in or around February 2015, defendant  
9 submitted and caused the submission of approximately \$2,435,089.00 in  
10 false and fraudulent claims, of which Medicare paid \$1,295,699.57.

11 Defendant committed all of the above acts knowingly and  
12 willfully, and with the intent to defraud.

13 SENTENCING FACTORS

14 11. Defendant understands that in determining defendant's  
15 sentence the Court is required to calculate the applicable Sentencing  
16 Guidelines range and to consider that range, possible departures  
17 under the Sentencing Guidelines, and the other sentencing factors set  
18 forth in 18 U.S.C. § 3553(a). Defendant understands that the  
19 Sentencing Guidelines are advisory only, that defendant cannot have  
20 any expectation of receiving a sentence within the calculated  
21 Sentencing Guidelines range, and that after considering the  
22 Sentencing Guidelines and the other § 3553(a) factors, the Court will  
23 be free to exercise its discretion to impose any sentence it finds  
24 appropriate up to the maximum set by statute for the crime of  
25 conviction.

26 12. Defendant and the government agree to the following  
27 applicable Sentencing Guidelines factors:  
28



Base Offense Level:	6	U.S.S.G. § 2B1.1(a)(2)
Loss Amount:		
More than \$1.5 million, but		
Less than \$3.5 million	16	U.S.S.G. § 2B1.1(b)(1)(I)
Health Care Fraud:	2	U.S.S.G. § 2B1.1(b)(7)
Abuse of Position of Trust	2	U.S.S.G. § 3B1.3
Acceptance of Responsibility	-2	U.S.S.G. § 3E1.1(a)
Total Offense Level:	24	

Subject to paragraph 24 below, defendant and the government agree not to seek, argue, or suggest in any way, either orally or in writing, that any other specific offense characteristics, adjustments, or departures relating to the offense level be imposed. Defendant agrees, however, that if, after signing this agreement but prior to sentencing, defendant were to commit an act, or the government were to discover a previously undiscovered act committed by defendant prior to signing this agreement, which act, in the judgment of the government, constituted obstruction of justice within the meaning of U.S.S.G. § 3C1.1, the government would be free to seek the enhancement set forth in that section.

13. Defendant understands that there is no agreement as to defendant's criminal history or criminal history category.

14. Defendant and the government reserve the right to argue for a sentence outside the sentencing range established by the Sentencing Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1), (a)(2), (a)(3), (a)(6), and (a)(7).

#### WAIVER OF CONSTITUTIONAL RIGHTS

15. Defendant understands that by pleading guilty, defendant gives up the following rights:

a. The right to persist in a plea of not guilty.

1           b.    The right to a speedy and public trial by jury.

2           c.    The right to be represented by counsel -- and if  
3 necessary have the court appoint counsel -- at trial. Defendant  
4 understands, however, that, defendant retains the right to be  
5 represented by counsel -- and if necessary have the court appoint  
6 counsel -- at every other stage of the proceeding.

7           d.    The right to be presumed innocent and to have the  
8 burden of proof placed on the government to prove defendant guilty  
9 beyond a reasonable doubt.

10          e.    The right to confront and cross-examine witnesses  
11 against defendant.

12          f.    The right to testify and to present evidence in  
13 opposition to the charges, including the right to compel the  
14 attendance of witnesses to testify.

15          g.    The right not to be compelled to testify, and, if  
16 defendant chose not to testify or present evidence, to have that  
17 choice not be used against defendant.

18          h.    Any and all rights to pursue any affirmative defenses,  
19 Fourth Amendment or Fifth Amendment claims, and other pretrial  
20 motions that have been filed or could be filed.

21                   WAIVER OF APPEAL OF CONVICTION

22          16. Defendant understands that, with the exception of an appeal  
23 based on a claim that defendant's guilty plea was involuntary, by  
24 pleading guilty defendant is waiving and giving up any right to  
25 appeal defendant's conviction on the offense to which defendant is  
26 pleading guilty.

1                    LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

2            17. Defendant agrees that, provided the Court imposes a total  
3 term of imprisonment on all counts of conviction of no more than 63  
4 months, defendant gives up the right to appeal all of the following:  
5 (a) the procedures and calculations used to determine and impose any  
6 portion of the sentence; (b) the term of imprisonment imposed by the  
7 Court; (c) the fine imposed by the court, provided it is within the  
8 statutory maximum; (d) the amount and terms of any restitution order,  
9 provided it requires payment of no more than \$1,295,699.57; (e) the  
10 term of probation or supervised release imposed by the Court,  
11 provided it is within the statutory maximum; and (f) any of the  
12 following conditions of probation or supervised release imposed by  
13 the Court: the conditions set forth in General Orders 318, 01-05,  
14 and/or 05-02 of this Court; the drug testing conditions mandated by  
15 18 U.S.C. §§ 3563(a)(5) and 3583(d); the alcohol and drug use  
16 conditions authorized by 18 U.S.C. § 3563(b)(7); and any conditions  
17 of probation or supervised release agreed to by defendant in  
18 paragraph 2 above.

19            18. The government agrees that, provided (a) all portions of  
20 the sentence are at or below the statutory maximum specified above  
21 and (b) the Court imposes a term of imprisonment of no less than 51  
22 months, the government gives up its right to appeal any portion of  
23 the sentence, with the exception that the government reserves the  
24 right to appeal the following: (a) the amount of restitution ordered  
25 if that amount is less than \$1,295,699.57.

26                    RESULT OF WITHDRAWAL OF GUILTY PLEA

27            19. Defendant agrees that if, after entering a guilty plea  
28 pursuant to this agreement, defendant seeks to withdraw and succeeds

1 in withdrawing defendant's guilty plea on any basis other than a  
2 claim and finding that entry into this plea agreement was  
3 involuntary, then (a) the government will be relieved of all of its  
4 obligations under this agreement; and (b) should the government  
5 choose to pursue any charge or any civil, administrative, or  
6 regulatory action that was either dismissed or not filed as a result  
7 of this agreement, then (i) any applicable statute of limitations  
8 will be tolled between the date of defendant's signing of this  
9 agreement and the filing commencing any such action; and  
10 (ii) defendant waives and gives up all defenses based on the statute  
11 of limitations, any claim of pre-indictment delay, or any speedy  
12 trial claim with respect to any such action, except to the extent  
13 that such defenses existed as of the date of defendant's signing this  
14 agreement.

15 EFFECTIVE DATE OF AGREEMENT

16 20. This agreement is effective upon signature and execution of  
17 all required certifications by defendant, defendant's counsel, and a  
18 Department of Justice Trial Attorney.

19 BREACH OF AGREEMENT

20 21. Defendant agrees that if defendant, at any time after the  
21 signature of this agreement and execution of all required  
22 certifications by defendant, defendant's counsel, and a Department of  
23 Justice Trial Attorney, knowingly violates or fails to perform any of  
24 defendant's obligations under this agreement ("a breach"), the  
25 government may declare this agreement breached. All of defendant's  
26 obligations are material, a single breach of this agreement is  
27 sufficient for the government to declare a breach, and defendant  
28 shall not be deemed to have cured a breach without the express

1 agreement of the government in writing. If the government declares  
2 this agreement breached, and the Court finds such a breach to have  
3 occurred, then: (a) if defendant has previously entered a guilty plea  
4 pursuant to this agreement, defendant will not be able to withdraw  
5 the guilty plea, and (b) the government will be relieved of all its  
6 obligations under this agreement.

7 22. Following the Court's finding of a knowing breach of this  
8 agreement by defendant, should the government choose to pursue any  
9 charge or any civil, administrative, or regulatory action that was  
10 either dismissed or not filed as a result of this agreement, then:

11 a. Defendant agrees that any applicable statute of  
12 limitations is tolled between the date of defendant's signing of this  
13 agreement and the filing commencing any such action.

14 b. Defendant waives and gives up all defenses based on  
15 the statute of limitations, any claim of pre-indictment delay, or any  
16 speedy trial claim with respect to any such action, except to the  
17 extent that such defenses existed as of the date of defendant's  
18 signing this agreement.

19 c. Defendant agrees that: (i) any statements made by  
20 defendant, under oath, at the guilty plea hearing (if such a hearing  
21 occurred prior to the breach); (ii) the agreed to factual basis  
22 statement in this agreement; and (iii) any evidence derived from such  
23 statements, shall be admissible against defendant in any such action  
24 against defendant, and defendant waives and gives up any claim under  
25 the United States Constitution, any statute, Rule 410 of the Federal  
26 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal  
27 Procedure, or any other federal rule, that the statements or any  
28

1 evidence derived from the statements should be suppressed or are  
2 inadmissible.

3 COURT AND PROBATION OFFICE NOT PARTIES

4 23. Defendant understands that the Court and the United States  
5 Probation Office are not parties to this agreement and need not  
6 accept any of the government's sentencing recommendations or the  
7 parties' agreements to facts or sentencing factors.

8 24. Defendant understands that both defendant and the  
9 government are free to: (a) supplement the facts by supplying  
10 relevant information to the United States Probation Office and the  
11 Court, (b) correct any and all factual misstatements relating to the  
12 Court's Sentencing Guidelines calculations and determination of  
13 sentence, and (c) argue on appeal and collateral review that the  
14 Court's Sentencing Guidelines calculations and the sentence it  
15 chooses to impose are not error, although each party agrees to  
16 maintain its view that the calculations in paragraph 12 are  
17 consistent with the facts of this case. While this paragraph permits  
18 both the government and defendant to submit full and complete factual  
19 information to the United States Probation Office and the Court, even  
20 if that factual information may be viewed as inconsistent with the  
21 facts agreed to in this agreement, this paragraph does not affect  
22 defendant's and the government's obligations not to contest the facts  
23 agreed to in this agreement.

24 25. Defendant understands that even if the Court ignores any  
25 sentencing recommendation, finds facts or reaches conclusions  
26 different from those agreed to, and/or imposes any sentence up to the  
27 maximum established by statute, defendant cannot, for that reason,  
28 withdraw defendant's guilty plea, and defendant will remain bound to

1 fulfill all defendant's obligations under this agreement. Defendant  
2 understands that no one -- not the prosecutor, defendant's attorney,  
3 or the Court -- can make a binding prediction or promise regarding  
4 the sentence defendant will receive, except that it will be within  
5 the statutory maximum.

6 NO ADDITIONAL AGREEMENTS

7 26. Defendant understands that, except as set forth herein,  
8 there are no promises, understandings, or agreements between the  
9 government and defendant or defendant's attorney, and that no  
10 additional promise, understanding, or agreement may be entered into  
11 unless in a writing signed by all parties or on the record in court.

12 PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

13 27. The parties agree that this agreement will be considered  
14 part of the record of defendant's guilty plea hearing as if the  
15 entire agreement had been read into the record of the proceeding.

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1 AGREED AND ACCEPTED

2 UNITED STATES ATTORNEY'S OFFICE  
3 FOR THE CENTRAL DISTRICT OF  
4 CALIFORNIA

5 EILEEN M. DECKER  
6 United States Attorney



4/24/16

7 RITESH SRIVASTAVA  
8 NIAL M. O'DONNELL  
9 Trial Attorneys  
10 United States Department of Justice  
11 Criminal Division, Fraud Section

Date

12 GARY J. ORDOG, M.D.  
13 Defendant

04/24/2016

Date

14 ELON BERK  
15 Attorney for Defendant Gary J.  
16 Ordog, M.D.

4/24/16


Date

17 CERTIFICATION OF DEFENDANT

18 I have read this agreement in its entirety. I have had enough  
19 time to review and consider this agreement, and I have carefully and  
20 thoroughly discussed every part of it with my attorney. I understand  
21 the terms of this agreement, and I voluntarily agree to those terms.  
22 I have discussed the evidence with my attorney, and my attorney has  
23 advised me of my rights, of possible pretrial motions that might be  
24 filed, of possible defenses that might be asserted either prior to or  
25 at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a),  
26 of relevant Sentencing Guidelines provisions, and of the consequences  
27 of entering into this agreement. No promises, inducements, or  
28 representations of any kind have been made to me other than those

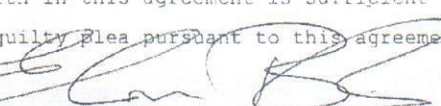


1 contained in this agreement. No one has threatened or forced me in  
 2 any way to enter into this agreement. I am satisfied with the  
 3 representation of my attorney in this matter, and I am pleading  
 4 guilty because I am guilty of the charges and wish to take advantage  
 5 of the promises set forth in this agreement, and not for any other  
 6 reason.

7  
 8  04/24/2016  
 9 GARY J. ORDOG, M.D.  
 Defendant Date

10 CERTIFICATION OF DEFENDANT'S ATTORNEY

11 I am Gary J. Ordog's attorney. I have carefully and thoroughly  
 12 discussed every part of this agreement with my client. Further, I  
 13 have fully advised my client of his rights, of possible pretrial  
 14 motions that might be filed, of possible defenses that might be  
 15 asserted either prior to or at trial, of the sentencing factors set  
 16 forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines  
 17 provisions, and of the consequences of entering into this agreement.  
 18 To my knowledge: no promises, inducements, or representations of any  
 19 kind have been made to my client other than those contained in this  
 20 agreement; no one has threatened or forced my client in any way to  
 21 enter into this agreement; my client's decision to enter into this  
 22 agreement is an informed and voluntary one; and the factual basis set  
 23 forth in this agreement is sufficient to support my client's entry of  
 24 a guilty plea pursuant to this agreement.

25   
 26 ELON BERK  
 27 Attorney for Defendant Gary J.  
 28 Ordog, M.D.

4/24/16  
 Date